

RENEWABLES COMMITTEE HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Proposed Rulemaking Pertaining) Docket No.
to Data Collection for Qualified) 03-CRS-01
Departing Load CRS Exemptions)
_____)

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
HEARING ROOM A
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 24, 2003

10:02 A.M.

Reported by:
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COMMISSIONERS PRESENT

John Geesman

STAFF AND CONSULTANTS PRESENT

Scott Tomashefsky

Mark Rawson

Melissa Jones

Darcie Houck

ALSO PRESENT

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I N D E X

	Page
Proceedings	1
Introductions	1
Opening Remarks	1
CEC Staff Presentation	1
Cost Responsibility Surcharge Proceeding Update	1
Draft Regulations (Express Terms)	11
Questions/Comments	11
CRS Exemption Request Form	35
Questions/Comments	37
Schedule	95
Closing Remarks	97
Adjournment	97
Reporter's Certificate	98

P R O C E E D I N G S

10:02 a.m.

PRESIDING MEMBER GEESMAN: Good morning.

This is a meeting of the Commission's Renewables Committee. I'm John Geesman, the Chair of the Committee. Commissioner Boyd is unable to join us today.

We're going to consider our cost responsibility surcharge regulations. Sitting next to me is my staff advisor, Melissa Jones. I think probably the best way to do this is to start with your presentation, Scott.

At the staff table are Scott Tomashefsky, who has headed this up very generously for the Commission. And I'm indebted to Commissioner Keese for making him as available as he has been the last several months on this. And sitting next to him is Darcie Houck, the staff counsel.

Scott, why don't you go ahead.

MR. TOMASHEFSKY: Thank you, Commissioner Geesman. I'm going to step over to the podium over here so I can run the slides.

Good morning to everyone. Thanks for showing up this morning.

1 The intent of this morning's discussion
2 is twofold. The first part is looking to get some
3 sort of input from stakeholders, at least in terms
4 of if there are some major concerns we have with
5 the express terms that were published on August
6 29th.

7 In essence what we have is departing
8 load regulations that we have field with the
9 Office of Administrative Law. And we've got a 45-
10 day clock ticking on that.

11 The Energy Commission is scheduled to
12 consider those for approval on October 22nd.
13 There are written comments that are due on October
14 20th.

15 So, given the fact that there's only two
16 days between the deadline for written comments and
17 the approval date, we wanted to use this as an
18 opportunity to see if there are some major
19 concerns that folks have. So that's part one of
20 the discussion.

21 The other part of the discussion is to
22 bring the Committee up to speed with respect to
23 where we are with the exemption request
24 application form. And as you're all aware we've
25 had a number of public workshops and discussions

1 on the side to come up with a form that is
2 workable for this process.

3 And there's a couple of areas where
4 we're going to need some Committee guidance on.
5 And I'll touch on those briefly, and then Dan
6 Tunnicliff and Katherine Manwarren from Edison and
7 PG&E respectively will walk us through whatever we
8 need to do in terms of the form. They've been
9 nice enough to take lead on doing a lot of the
10 legwork and getting the form where it is today.

11 So, no proceeding is complete, no
12 discussion is complete without a chart that shows
13 where we've been from the beginning of the
14 discussion. You can see that we started this
15 rulemaking in May and we've had a series of public
16 workshops, one renewables committee workshop.
17 This represents the first hearing. I'm not going
18 to go into any great detail.

19 The couple of notable dates I'll just
20 show you there is August 29th, which is the day we
21 have the draft regulations published.

22 September 17th we had posted some slight
23 modifications to those draft regulations which
24 basically took care of a slight glitch we had in
25 the original regs. We had taken the definition of

1 customer generation, departing load and basically
2 inadvertently had merged the two definitions
3 together. So our intent was to be consistent with
4 the CPUC's decision in April, which parties did
5 not have any concerns about. So that, in essence,
6 was what was published and revised regulations.
7 It does not change the timing for the October 22nd
8 approval date.

9 Just one other note that I did want to
10 make with respect to the express terms. There's
11 another couple of minor editorial glitches I just
12 wanted to make you aware of. So if you look at
13 your express terms and you turn to page 5, in
14 section 1395.3, towards the bottom of the page,
15 the second-to-last paragraph on the page, which is
16 paragraph (4).

17 The first sentence is supposed to read:
18 Not include in the queue a CRS exemption request
19 if the customer does not meet the criteria
20 outlined in section (d) of this section. Rather
21 than (c)(3). And that's just a minor clerical
22 error.

23 The final paragraph also is numbered (3)
24 and it should actually be numbered (5). So those
25 are the only two minor changes we've caught. With

1 those changes we don't expect to find any other
2 changes.

3 I'm not going to go through this again;
4 I went through this at the Renewables Committee
5 workshop a couple months ago. The only change
6 that we have in this illustration compared to what
7 we had before is in the first box on the top left
8 corner where the customer submits the form to the
9 utility and the Energy Commission. Before we had
10 it as just the utility.

11 And based on concerns that stakeholders
12 had we wanted to make sure that it was submitted
13 concurrently to both the utility and the Energy
14 Commission so there was no possibility of gaming,
15 at least in terms of sitting on applications. So
16 that's the only change in that algorithm that's
17 there.

18 We'll get into this a little bit more in
19 the second half, but in essence the form is being
20 developed on behalf of the Energy Commission. The
21 utilities have been gracious enough to put several
22 drafts. They've had several internal meetings.
23 We've had a number of public workshops. And so
24 this form, in its current format, really does have
25 some public input into it.

1 In terms of the form, itself, and we can
2 talk about these much moreso when Dan and Karen
3 walk through their particular parts. We had some,
4 there were some calls that were needed in terms of
5 four of the parts when it comes to the form.

6 Part 4 has to do with over-the-fence
7 transactions. And we've had a lot of debate on
8 that particular issue. So we would need some
9 guidance from you as to whether or not that needs
10 to be included. And I guess we'll leave the
11 debate up for that particular time.

12 In part 6 there are two things. The
13 definition of ultra clean and low emissions is
14 actually scheduled to change upon the signature of
15 AB-1685, which is on the Governor's desk for
16 approval. That is designed to extend the self-gen
17 program by three years, I believe it's three
18 years.

19 That also changes the operational date
20 from 2005 as an ending point to 2008 as an ending
21 point. We had some concerns early on that after a
22 year and a half of having this in play there
23 wouldn't even be any opportunity to qualify as
24 ultra clean and low emissions just by that
25 restriction. So there's a three-year window that

1 gets thrown onto that. So that's one element.

2 The other element that we need some
3 guidance on is the interpretation of 353.2, which
4 basically looks at the word operation. And in the
5 context of meeting the 2007 CARB DG emissions
6 requirements, whether we are looking at
7 certification as appropriate interpretation of
8 that term, or do we really have to go and look at
9 the operational characteristics of each individual
10 generating facility. So that's something that we
11 can talk about when we get there.

12 Part 7 has to do with the CTC affidavit,
13 whether it's needed or not. And we'll discuss
14 that, as well.

15 And then the last part is part 8;
16 there's a page in the form that is basically
17 something that's being completed by the utility.
18 The question is whether the customer really needs
19 to see that before the fact as a sheet that
20 they're not going to fill out, or whether they
21 need to see that after the fact when they receive
22 approval or not. It's just a matter of whether it
23 needs to be put in the package that initially gets
24 sent to the customer in advance or after the fact.
25 But it's not a question whether that piece of

1 information is important. It's just the timing
2 behind when it is submitted to the customer.

3 The other thing we need to do is look at
4 establishing a megawatt cap. And it's nice to
5 have the regulations in place, but we want to be
6 able to have something that is informative and
7 really does what we're being tasked to do.

8 The megawatt cap is going to be posted
9 on our website and maintained by our staff. The
10 categories in essence, this is just crudely, just
11 going to be roughly put into three basic
12 categories that you can see.

13 And at this point what we're doing is
14 we're getting information from the utilities, at
15 least in terms of trying to figure out what that
16 number will be up front.

17 We had talked about earlier having on
18 day one a certain amount of megawattage that's
19 actually put in play, and it would be something
20 less than 3000 megawatts. But in discussions
21 we've had there seems to be the onus of having the
22 customer make that request. So even if the
23 customer who is eligible for departing load
24 exemptions, after February 2001 they need to make
25 that request to be able to be put in the queue.

1 We're not trying to figure it out based on
2 nameplate capacity. And since it's not nameplate
3 capacity it's really on the customer's side to
4 figure out whether they are eligible potentially
5 or not.

6 And then once we get those applications
7 we'll be in good shape. What we would have is
8 we'd expect to have a wave of applications that
9 would start probably once we got these things up
10 and running. And then things would settle down.
11 But it's really a timing thing.

12 MS. JONES: And just to clarify that
13 then it's the amount of customers who already
14 qualify and who would reduce the cap from the 3000
15 megawatt level.

16 MR. TOMASHEFSKY: That's right. The PUC
17 decision says projects that are operational after
18 February 1, 2001. So we've got that window of
19 what happens to all those customers who are
20 already operational from that period. So, yes.

21 So we basically have three next steps if
22 you want to look at it that way. The draft
23 regulations, of course, are the highest priority
24 situation.

25 In terms of the CRS exemption request

1 we'll probably need one additional public event
2 after listening to some guidance from you,
3 Commissioner Geesman, and comments from others
4 here. Whether we have it as a formal workshop or
5 written comments, some other discussion, we'll
6 have to figure that out. But we do want to commit
7 to at least one additional wave of public input,
8 whether it's in-person or not. We'll see which
9 works best for the parties.

10 And then also we're going to still need
11 to have additional discussions for the megawatt
12 cap, which includes web design discussions within
13 our own organization, data gathering discussions
14 with the utilities, at least in terms of getting
15 some of that information. And then public
16 discussion and dissemination of aggregated data.

17 And that's in essence where we are.

18 PRESIDING MEMBER GEESMAN: When do you
19 see us adopting the form?

20 MR. TOMASHEFSKY: I would say close to,
21 but probably after, October 22nd.

22 PRESIDING MEMBER GEESMAN: Okay.

23 MR. TOMASHEFSKY: But I don't think it
24 will be that long after. My hope would be that
25 everything we have ready to go is ready to go by

1 the end of December. So we have a little bit of
2 slack built into that schedule. But it's all
3 contingent on when the regulations go into effect
4 on day one, assuming mid January. We need to have
5 everything ready to go. So the earlier we get the
6 forms done the better off we are.

7 PRESIDING MEMBER GEESMAN: Yeah.

8 MR. TOMASHEFSKY: That's all I have to
9 say.

10 PRESIDING MEMBER GEESMAN: Why don't we
11 next go to comments on the regs, themselves. I
12 want to take the form up separately, but before we
13 get to the form, I'd like to work through the regs
14 in terms of whatever comments anybody in
15 attendance may have.

16 Who want to go first, if there are any?
17 So am I to assume that these regs are in such
18 perfect form that we shouldn't spend any time
19 talking about them today?

20 MS. TESSLER: My first comment is pretty
21 minor, but on page 3 --

22 PRESIDING MEMBER GEESMAN: You should
23 identify yourself for the --

24 MS. TESSLER: Amy Tessler, PG&E. On
25 page 3, at least my page 3, 1395.1, section (t)

1 where we talk about partial CRS exemption, the
2 reference section 1395.2(e)(4) I believe is
3 incorrect. I think it's supposed to be 1395.3(d).
4 I don't think there is a 1395.2(e)(4) anymore.

5 UNIDENTIFIED SPEAKER: (inaudible).

6 MS. TESSLER: The one from the CEC
7 website.

8 PRESIDING MEMBER GEESMAN: Her page
9 numbering is different than ours.

10 MS. TESSLER: It's 1395.1, express
11 terms, --

12 MR. TOMASHEFSKY: So you're looking at --
13 -

14 MS. TESSLER: Mine says partial -- I'm
15 looking at partial CRS exemption.

16 MR. TOMASHEFSKY: I wonder if you're
17 looking at the original (inaudible).

18 MS. TESSLER: Well, does yours say
19 1395.2(e)(4)?

20 MR. TOMASHEFSKY: (c)(4).

21 MS. TESSLER: Yeah, okay. Probably it's
22 my strike-out. I still think it's supposed to be
23 1395.3(d). My strike-out made my (c) look like an
24 (e). Okay, I still think it's supposed to be
25 1395.3(d). Is that --

1 PRESIDING MEMBER GEESMAN: I think I
2 heard Darcie say one point for Amy.

3 MR. TOMASHEFSKY: That's right.

4 MS. TESSLER: Okay.

5 (Laughter.)

6 MS. TESSLER: And then that section
7 1395.3(d) that we're referring to, I think -- this
8 is just a suggestion -- that where we talk about
9 category 1, and where we talk about category 2,
10 there's nowhere in that section where we state
11 that these technology types, which are defined,
12 are exempt from bond CTC and CTC unless they meet
13 cogen, then they're exempt from CTC.

14 It doesn't ever say what their exempt
15 from. It just says they are granted partial CRS
16 exemptions.

17 PRESIDING MEMBER GEESMAN: Which is a
18 defined term.

19 MS. TESSLER: But it doesn't explicitly
20 say based on the decision what they are exempt
21 from.

22 PRESIDING MEMBER GEESMAN: You go to the
23 definition and it says certain components of the
24 CRS, as defined in subsection (g). You go to
25 subsection (g) --

1 MS. JONES: It refers back to the
2 decision.

3 PRESIDING MEMBER GEESMAN: Yeah.

4 MR. TOMASHEFSKY: Perhaps in looking at
5 the definition of G, and looking at the partial
6 exemption, I believe we wanted to keep the
7 flexibility that there's certain categories that
8 certain customers may or may not have charges
9 imposed upon them.

10 And so by virtue of saying that we
11 wanted to identify what the cost categories were,
12 but not necessarily tie us into the particular
13 cost portions that might be exempted.

14 So the regs are just designed to do
15 that, as opposed to be explicit in terms of which
16 ones they are specifically exempted from.

17 MS. TESSLER: It just seems odd that
18 nowhere in this document do we say that these
19 customers are exempt from these charges, that you
20 have to refer back to the decision to figure that
21 out.

22 PRESIDING MEMBER GEESMAN: I think that
23 that may stem from our desire on our part not to
24 be lured into redefining terms or interpreting
25 terms of the decision.

1 MS. TESSLER: I'll just say that I think
2 it's pretty straightforward that with respect to
3 1, it would refer back to the bond charge and CTC
4 unless they are cogen. And with respect to 2,
5 it's bond, CTC, HPC unless they are exempt because
6 they are cogen.

7 I don't believe it's anything
8 controversial. I just think it should be stated,
9 is just the comment.

10 MS. JONES: And is this the same for
11 PG&E and Edison?

12 MS. TESSLER: I don't believe it's
13 controversial, but I'll leave it up to --

14 MS. JONES: No, it's not that it's
15 controversial; it's that it's different. It
16 doesn't have all the same components, isn't that
17 correct?

18 MR. TOMASHEFSKY: Right. The HPC only
19 is applicable --

20 MS. TESSLER: Only applies to Edison.

21 MR. TOMASHEFSKY: -- to Edison and
22 nothing else.

23 MS. JONES: Right. So when you describe
24 it you're still not describing because it's
25 different between utilities. There's not one

1 generic description, I think, that you can come up
2 with that's easily placed into the language. I
3 think the staff struggled with that.

4 MR. TOMASHEFSKY: Right, and as
5 Commissioner Geesman indicated, to the extent that
6 there's a subsequent PUC decision which basically
7 defines some additional exemption characteristics,
8 what we can do is we can go back and redefine
9 definition (g) for cost responsibility surcharge,
10 as opposed to trying to change the language within
11 the sections to accommodate those particular
12 things.

13 It's much easier to change the
14 definition than it is to change the specific
15 reference to the definition in section (d) 1395.3.

16 PRESIDING MEMBER GEESMAN: Well, you
17 know, looking at section (g) it seems to me that
18 we provide adequate clarity in the numbered items
19 1 through 4. I'm not inclined to think that we
20 can improve on this one.

21 MS. TESSLER: Okay.

22 PRESIDING MEMBER GEESMAN: Other
23 comments?

24 MS. SAVILLE: Good morning, Tracy
25 Saville. I'm representing RealEnergy and also the

1 Joint Parties for Distributed Energy Resources.

2 And I'm going to save you some time today. And I
3 apologize, but there are several in our group who
4 are still reviewing the current draft of the regs,
5 and we will be providing written comments.

6 PRESIDING MEMBER GEESMAN: Okay.

7 MS. SAVILLE: Thank you.

8 PRESIDING MEMBER GEESMAN: Sure.

9 MR. TORRIBIO: Jerry Torribio, Southern
10 California Edison. In section 1395.3, it's a
11 section, section (a); it's on my page 5, which I
12 printed off. But basically it says, capital A, it
13 says: If the form is incomplete the electric
14 utility shall notify the customer.

15 And what I would suggest is where it
16 says the form requires supplementary information
17 that may mean supplemental or supplementary. I'm
18 not sure if it was a typo or it's just --

19 PRESIDING MEMBER GEESMAN: It's the last
20 sentence in that paragraph where it says the
21 notification shall indicate which portions of the
22 form require supplement information.

23 MR. TORRIBIO: Yes.

24 PRESIDING MEMBER GEESMAN: And that
25 doesn't sound like good grammar.

1 MR. TOMASHEFSKY: No, it doesn't. Poor
2 grammar, we'll concede that one, as well.

3 MR. TORRIBIO: And then the second is
4 section 1395.4. It's the section on the queue.
5 And I invite your attention to the last paragraph,
6 it's on my page 7, but it's paragraph (f) that
7 expresses the intention that the Commission shall
8 develop a monitoring process in order to insure
9 that information provided in the queue, et cetera,
10 et cetera.

11 And it also makes reference the
12 Commission will develop monitoring procedures to
13 insure customer generation continues to meet the
14 requirements for exemption once listed in the
15 queue.

16 And relating to that I would recommend a
17 couple of paragraphs up where it's under numeral
18 1, remove CRS exemption request. If a customer
19 does not commence operation within 12 months --
20 there are two things listed here that might result
21 in the exemption request being taken out of the
22 queue. And I would recommend that a third item
23 be, or at the end of that where it reads now,
24 development plan submitted to the Commission at
25 the time the exemption is listed in the queue.

1 I'd recommend adding more: If customer ceases to
2 meet the requirements for exemption.

3 That would kind of close the loop with
4 the monitoring program which is going to be set
5 up.

6 That's the extent of my comments.

7 MR. TOMASHEFSKY: That's perfectly
8 appropriate.

9 PRESIDING MEMBER GEESMAN: Yeah, I don't
10 have a problem with that.

11 MS. JONES: So that would now be a
12 numeral 3?

13 MR. TOMASHEFSKY: That would be in -- on
14 page 7, I guess, it's that paragraph 1 that starts
15 with: Remove CRS exemption request.

16 MS. JONES: Okay, so you put it in at
17 the end of that paragraph.

18 MR. TOMASHEFSKY: Right. Okay. I think
19 actually, Jerry, you were saying after the first
20 comma, right? Where it says: Remove CRS
21 exemption request when the customer does not
22 commence operation within 12 months from the date
23 the CRS exemption request is placed in the queue.
24 Or if customer ceases to meet the requirements for
25 exemption.

1 MR. TORRIBIO: I think that would be it,
2 period.

3 MR. TOMASHEFSKY: Okay. You're not
4 suggesting we take out the rest of that sentence
5 at all? About not -- is that --

6 MR. TORRIBIO: Maybe I should just read
7 it.

8 MR. TOMASHEFSKY: Why don't you read
9 that, could you do that? Thank you.

10 MR. TORRIBIO: Let me just read it as I
11 would suggest.

12 After numeral 1: Remove CRS exemption
13 request if a customer does not commence operation
14 within 12 months from the date a CRS exemption
15 request is placed in the queue, or if the customer
16 does not demonstrate sufficient compliance with
17 the development plan submitted to the Commission
18 at the time the exemption is listed in the queue."

19 And then I would add: , or if the
20 customer ceases to make the requirements for -- I
21 guess it would be better to say for CRS exemption
22 period.

23 MR. TOMASHEFSKY: Great. Thank you.

24 MR. TEAGUE: Hello; I'm Jonathan Teague
25 with the Department of General Services. And as

1 one of the other parties said, we have a number of
2 editorial comments. They're not completely
3 compiled, but we will be submitting written
4 comments, as well.

5 There's a couple of things that I'd like
6 to point to right now, though. There was a
7 discussion earlier of the exemption of partial CRS
8 exemption. It refers to section 1395.2(c)(4),
9 this article.

10 As I go down to 1395.2 I don't find item
11 (c). I'm wondering if that's a clerical error
12 there on that section designation. Maybe that
13 should be 1395.3.

14 MR. TOMASHEFSKY: Yeah, Jonathan,
15 actually the reference should be 1395.3(d), which
16 is what PG&E had pointed out.

17 MR. TEAGUE: 3(b) (sic), okay. I missed
18 that. MR. TOMASHEFSKY: Yeah.

19 MR. TEAGUE: Sorry about that. Let's
20 see. There's one other item here, 1395.4; it
21 addresses the queuing process, and pretty much has
22 resolved the concerns we had.

23 1395.5, since that section includes
24 certain timelines within which the customer must
25 act or risk losing its position in the queue, it

1 might be good to indicate that requirement on the
2 form. I know we're not at the form yet, but since
3 we're talking about references in the regs, that's
4 one that should, I think, follow through to the
5 form.

6 And that's it for now. We'll submit
7 written summary of the other items.

8 PRESIDING MEMBER GEESMAN: Thank you.

9 MS. JOLIVETTE: Renee Jolivette from
10 Pacific Gas and Electric Company. A couple
11 comments. On section 1395.2(b) there's discussion
12 that each utility may develop forms that are
13 substantially meet the criteria set forth by the
14 Energy Commission.

15 And it's PG&E's plan at this point in
16 time to file its form once we get it all finalized
17 with the Public Utilities Commission.

18 My concern is after that point we would
19 be subject to Utilities Commission regulations;
20 potentially the Utilities Commission could order
21 changes to the form. And then we'd be in a
22 position where the Energy Commission would still
23 have to provide 30 days -- we'd still have to
24 provide 30 days notice to the Energy Commission.

25 What I suggest here as a possible remedy

1 so we don't find ourselves with conflicting
2 regulation would be that once the utility files a
3 form with the Utilities Commission, and it's
4 approved, that any future changes that need to be
5 incorporated into the Utilities' form by the
6 Energy Commission could be worked out with the
7 Energy Commission and the other interested
8 parties. And then proposed as a change in the
9 filing to the Utilities Commission. That's one
10 way of getting around having conflicting agencies
11 involved in the approval of the form.

12 PRESIDING MEMBER GEESMAN: I thought the
13 energy action plan had ruled out the possibility
14 of there ever being a conflict between the two
15 agencies.

16 MS. JOLIVETTE: Well then it's not a
17 problem.

18 (Laughter.)

19 PRESIDING MEMBER GEESMAN: But in the
20 hypothetical there was. How do we deal with that?

21 MR. TOMASHEFSKY: Well, we, in some of
22 our data collection authority type of situations
23 there usually isn't a requirement to file a form
24 with the Public Utilities Commission.

25 So in the context of this particular

1 proceeding I don't see -- I mean outside of the
2 fact that the Public Utilities Commission is going
3 to administer the tariffs, they're taking our
4 recommendations and the like in terms of the
5 megawatt cap. So I don't see the need why the PUC
6 should have any say on what goes into that form,
7 since --

8 MS. JOLIVETTE: Okay. Typically when we
9 have a form where customers providing us
10 information and signing, especially if it's an
11 affidavit asserting that they're eligible for
12 certain tariff exemptions, that we have filed
13 those forms with the Commission.

14 MS. HOUCK: I guess I don't know that
15 there's a problem filing that with the Commission,
16 but our data collection purposes, what we're
17 really looking at is compliance with our
18 regulations, and it would need to be our form and
19 our approval.

20 I know that the PUC decision did state
21 that the utilities were to cooperate and provide
22 this information to the CEC. So I guess I'm not -
23 - I mean hopefully the Commission and the PUC are
24 going to be consistent in what they want. But I
25 think for our purposes to collect the information

1 we have to have some oversight in that.

2 MS. JOLIVETTE: Okay.

3 PRESIDING MEMBER GEESMAN: Okay.

4 MS. JOLIVETTE: Second item is
5 1395.3(b)(3). It's not a big issue, however we're
6 saying send the Commission and the customer
7 confirmation in writing of the full CRS exemption,
8 approval within 10 calendar days.

9 One suggestion would be we might want to
10 allow for in the future some sort of electronic
11 communication rather than just specifically saying
12 in writing something to the effect of, in writing
13 or in other form as is acceptable to the parties,
14 so that if in the future we have electronic
15 transmission of this information we can get around
16 the hard copies.

17 MR. TOMASHEFSKY: Is there a concern in
18 terms of legal issues if there's ever a legal
19 dispute that an electronic form may not have the
20 same weight as a written piece of paper?

21 MS. JOLIVETTE: That was the concern.

22 PRESIDING MEMBER GEESMAN: Do we have
23 regulations that address electronic filings and
24 their consistency with, or rather
25 interchangeability with written filings?

1 MR. TOMASHEFSKY: Well, I don't -- you
2 may know that.

3 MS. HOUCK: I think we do. I'll go back
4 and look at the exact language of our regulations.
5 But I think we do allow for that, that we address
6 that.

7 PRESIDING MEMBER GEESMAN: And was there
8 not some legislation passed about a year ago, I
9 think federally, that attempted to establish the
10 legal equivalency of electronic forms of
11 communication with written forms?

12 MS. HOUCK: I think so, I'm not familiar
13 with exactly what it said. So I'd have to go -- I
14 can definitely check on that, though. And I will
15 get back.

16 MS. JOLIVETTE: Third and last comment
17 for today. PG&E will be providing written
18 comments, as well, but just to bring up some of
19 the concerns we had in the initial reading.

20 The 1395.5(c) -- I'm sorry, 1395.5(e).
21 This actually deals with the Energy Commission's -
22 - the Energy Commission being the party that will
23 handle resolution 4 CRS exemptions. That's our
24 understanding of this procedure and we support
25 that, that any concerns regarding whether or not a

1 facility qualifies for the CRS exemption would be
2 resolved with the Energy Commission.

3 Again, where that gets us into some
4 areas of concern with our filed tariff is that our
5 filed tariff on departing load charges currently
6 gives the dispute resolution responsibility to the
7 Utilities Commission.

8 I think we need to be clear on who is
9 responsible for which aspects of the dispute
10 resolution. And perhaps we could have that in the
11 regulations, and then we'll go ahead, and with our
12 tariff filing, make any necessary modifications.

13 PRESIDING MEMBER GEESMAN: Um-hum.

14 MR. TOMASHEFSKY: Has the PUC approved
15 those tariffs yet?

16 MS. JOLIVETTE: No.

17 MR. TOMASHEFSKY: That's for all three
18 of the IOUs, right? Okay. So it's still pending
19 then for all.

20 MS. JOLIVETTE: Still pending. Thank
21 you.

22 PRESIDING MEMBER GEESMAN: I think you
23 need to flag it for Julie. I would expect she'll
24 be fine with the approach that you're taking.

25 MR. TOMASHEFSKY: Okay, well, yeah,

1 we'll check with the Public Utilities Commission.

2 MS. SAVILLE: I actually had a
3 clarifying question. This is Tracy Saville again.
4 Scott, could you just remind me what, within the
5 context of this draft of the regulations, is still
6 outstanding issues of dispute that might have been
7 filed with the PUC on those tariffs that you feel
8 may affect the regs, but that you're still looking
9 from the PUC for some direction on? Is there any
10 specific issues in your mind that are still
11 hanging out there?

12 MR. TOMASHEFSKY: Well, I think the
13 interpretation of the 2007 air emission
14 requirement, that's the use of the term operation;
15 how it's classified in the context with 353.2;
16 that's one element.

17 I think there's a number of minor issues
18 and I think we need to clarify this last one being
19 one of them in terms of dispute resolution
20 process. It probably would be useful for us to
21 take a look at what the utility filings were, at
22 least in terms of departing load language. And
23 maybe talk on a side discussion and say, okay,
24 well, here's some of the terms and conditions that
25 they put together before we started this process.

1 Am I correct in saying that those forms,
2 Dan, were filed before May?

3 MR. TUNNICLIFF: (Affirmative nod.)

4 MR. TOMASHEFSKY: And they've been
5 pending for quite awhile.

6 MR. TUNNICLIFF: For quite some time.
7 We filed in probably April.

8 MR. TOMASHEFSKY: Okay. So, in essence,
9 those conditions that were put in those tariffs
10 have not really had the benefit of having this
11 process incorporated, and perhaps that's something
12 that we need to just make sure we're in sync.

13 And whether it results in another filing
14 occurring I guess that'll be the Public Utilities
15 Commission call.

16 But, in essence, as long as that form
17 is, as long as those tariffs are approved in
18 connection with these regs being approved, and
19 everything happening around the first of January,
20 I think that's probably a good goal to have at
21 this point.

22 MS. SAVILLE: And I do think that there
23 are two or three points in our original formal
24 comments on the regs of July 21st that deal with
25 our interpretation of the PUC's decision under

1 ordering paragraph 10 which limits the expiration
2 of exemptions. It's the issue of -- that are
3 exceptions adopted in that decision were provided
4 in ordering paragraphs 8 and 9 --

5 MR. TOMASHEFSKY: Tracy, can you provide
6 clarity as to what that July 21st filing was? Was
7 it with us or was it with the Public Utilities
8 Commission?

9 MS. SAVILLE: It was formal comments to
10 you on that draft version of the regulations. And
11 I think we were trying to describe how we felt
12 that although all customer generation counts
13 toward the aggregate megawatt cap, only ultra
14 clean and other, which is net metering, customer
15 generation departing load become subject to the
16 DWR power charge when the cap is met.

17 And so I think we were talking about
18 there's a portion of those that would be exempt
19 that shouldn't have to necessarily submit the
20 entire forms in order to get the place in the
21 queue in the exemption, and I'll address that in
22 my next iteration of comments.

23 And I do think we still have a dispute
24 that we're looking for direction from the PUC on a
25 resolution relative to the definition of the word

1 criteria on the PUC program versus receipt of
2 funding. And I know you know that, that that's
3 still out there. Okay.

4 MS. JONES: But did that change anything
5 in the language of the regs that we're looking at
6 today, or are those issues that are outside that
7 need to be interpreted by the PUC?

8 MS. SAVILLE: It may. Again, we have,
9 unfortunately, a badly timed call with our
10 attorney on this tomorrow. And it will be part of
11 what we'll address in our comments. Thank you.

12 PRESIDING MEMBER GEESMAN: Okay. Any
13 other comments on the regs?

14 MR. MURLEY: Good morning; my name is
15 Clyde Murley. I'm here on behalf of UC and CSU
16 this morning. And I would just like to draw the
17 Committee's attention and Energy Commission
18 Staff's attention to what I think might be
19 actually a problem precipitated by the UC's
20 decision in this case. But I think it still
21 requires resolution.

22 In section 1395.3, near the end of that
23 section in subsection (b), as in boy, where it
24 says: 500 additional megawatts by the end of
25 2008.

1 Now, the PUC decision says in the
2 analogous place, 500 additional megawatts by July
3 1, 2008. Now, in the next ordering paragraph from
4 the PUC, when it is addressing specifically the
5 UC, CSU set-aside, it then becomes inconsistent.
6 And then it says, by the end of 2008.

7 But I do believe for the larger megawatt
8 tranches, the 600, the 500 and the 400, it's quite
9 precise in setting out the time periods covered by
10 each tranche. And for the 500 additional
11 megawatts that time period does begin in July 1,
12 '08.

13 So, perhaps this is a matter of
14 consulting with the CPUC to kind of resolve this
15 issue, unless the Energy Commission had something
16 else in mind.

17 MR. TOMASHEFSKY: No, that's, in terms
18 of what we put in there for the UC, CSU language,
19 of course, is consistent with the second portion
20 of what the PUC granted in its decision, which is
21 the end of 2008.

22 MR. MURLEY: That's right. And there is
23 where I believe the PUC just, you know, committed
24 an oversight there. I'm quite sure it meant to be
25 consistent and was not consistent.

1 So what I think would be more
2 appropriate is to just make it by July 2001, 2008
3 for all affected projects, rather than setting up
4 two different time schedules. That would be our
5 suggestion.

6 MR. TOMASHEFSKY: What we can do there
7 is also check with the PUC on that clarification.
8 And I would anticipate that ultimately when the
9 Commission issues a decision that as part of our
10 decision there would be some areas that the PUC
11 would need to look at to make sure that we're all
12 consistent when these regs go into effect.

13 So, appreciate you bringing that up.

14 MR. MURLEY: Sure.

15 MR. TOMASHEFSKY: Thank you.

16 MR. MURLEY: Thank you.

17 PRESIDING MEMBER GEESMAN: Other
18 comments on the regs?

19 Okay, Scott, can you remind us what the
20 deadline for written comments is?

21 MR. TOMASHEFSKY: Sure. Written
22 comments due on October 20th. We would be more
23 than happy to take them early, though. And to the
24 extent that they're earlier than that we can
25 probably do more with it.

1 So, if there's any way to get it earlier
2 than that date, we would be appreciative.

3 PRESIDING MEMBER GEESMAN: Okay, why
4 don't we go to the form.

5 MR. TOMASHEFSKY: Great. Okay. Dan and
6 Katherine, why don't you -- if you could just come
7 up and sit next to the -- okay, Chuck, you have
8 one more comment?

9 MR. SOLT: I just have a question. It
10 appears that the form doesn't incorporate any of
11 the comments and discussion that we had at the
12 last workshop. Do they? Or did I misunderstand
13 something?

14 MR. TORRIBIO: They do.

15 MR. TOMASHEFSKY: They're designed to,
16 Chuck.

17 MR. SOLT: I'm sorry?

18 MR. TOMASHEFSKY: They are designed to
19 incorporate what we talked about at the last
20 workshop. If they haven't we'll catch them again
21 here.

22 MR. SOLT: Thank you.

23 MR. TOMASHEFSKY: We tend to hit about
24 95 percent each time we go through this.

25 Okay, yeah. So, Dan and Katherine, if

1 you can just come up and sit next to our court
2 reporter; this way you'll have the microphones
3 there and we can continue.

4 MR. TUNNICLIFF: Dan Tunnicliff with
5 Southern California Edison.

6 MS. MANWARREN: Katherine Manwarren,
7 Pacific Gas and Electric.

8 MR. TUNNICLIFF: Scott, how would you
9 just proceed? Section by section until we get to
10 the parts that need further clarification, or need
11 some input from the Commission?

12 MR. TOMASHEFSKY: I think so, just a
13 general description of what those other parts have
14 in them, so the Committee's just aware of what's
15 there.

16 MR. TUNNICLIFF: Okay. Part one is
17 generally the introduction and overview. Hasn't
18 changed significantly throughout the process, at
19 least from the last iteration.

20 We do make reference in part one,
21 section (e) about the dispute resolution process.
22 And I believe Renee from PG&E brought up some
23 issue with how do those things get timed out or
24 coordinated.

25 Part two talks about host customer

1 information and the form when we've submitted it.
2 Some of the formatting is not correct, so there
3 will likely be fewer pages, and the sections will
4 be split more appropriately.

5 Part three, description of the
6 generating facility. Made some modifications to
7 that section based on input at the last meeting to
8 include specifically in the case of one gentleman
9 talking about wind turbines and having a number of
10 wind turbines that are all similar or all the same
11 as far as generator type. There's a mechanism
12 input so they can install or illustrate the number
13 of units and just fill out the generator section
14 once.

15 The nameplate, size, total gross
16 nameplate rating, net output rating and net output
17 in kilowatt hours is also updated to include
18 comments.

19 MR. TOMASHEFSKY: Right, and I guess
20 when we were having the discussions, the key thing
21 that we wanted to distinguish between was the
22 request from the customer for the exemption. We
23 wanted to be able to tie that into a particular
24 generating facility. So we needed the nameplate
25 capacity potentially of the generating facility.

1 But we really are interested in what the
2 customer's requesting.

3 MR. SOLT: Question on 3. Last time
4 when we were discussing these I got down to the
5 line that said gross nameplate rating and net
6 nameplate rating, and I brought up the fact that I
7 have only ever seen one nameplate rating, which is
8 nameplate rating.

9 And I don't know what it means gross
10 nameplate rating and net nameplate rating. I
11 believe that we agreed that we wanted to say
12 something like nameplate rating and net power
13 output or something along those lines.

14 But the way that it is right now, if I
15 was an applicant I would have no idea what to fill
16 in. The units only have one nameplate.

17 PRESIDING MEMBER GEESMAN: You need to
18 identify yourself for the --

19 MR. SOLT: Oh, sorry. Chuck Solt, Lindh
20 and Associates.

21 MR. TUNNICLIFF: When we've used this in
22 our context, at least internally, nameplate,
23 you're right, Chuck. There is one nameplate
24 rating on the generator, itself. And the metal
25 box for net output is designed to pick up the

1 actual load being served by that generator less
2 auxiliaries.

3 If there needs to be further
4 clarification on those definitions we'd be happy
5 to take recommendations on that.

6 PRESIDING MEMBER GEESMAN: I think he's
7 looking down at the information that's identified
8 as generator number one in item (a) the equipment
9 description, the second line has two spaces.

10 MR. TUNNICLIFF: Okay, so gross
11 nameplate rating and net nameplate rating, is that
12 correct, Chuck?

13 MR. SOLT: Yes. And if there is only
14 one nameplate I don't know how you would have two.
15 So I think you need to change one, or both of
16 those. You could say gross power output and net
17 power output, or something like that. Or
18 nameplate rating and net power output. Something
19 like that.

20 MR. TUNNICLIFF: I understand. So,
21 instead of gross nameplate it would be nameplate
22 rating; and net output.

23 MR. RAWSON: Mark Rawson, Energy
24 Commission. I have in my notes from the last form
25 workshop that we had agreed to specify the

1 nameplate of the generator and the net output of
2 the generating facility. Collectively, I thought
3 the group agreed to that change.

4 MR. TUNNICLIFF: Since we didn't receive
5 any written comments from other people, other than
6 the utilities, themselves, we did the best that we
7 could. So we apologize for any oversight there.

8 MS. MANWARREN: We also wanted to
9 capture any derating that might go on that would
10 not be reflected in the nameplate rating.

11 PRESIDING MEMBER GEESMAN: And how do
12 you do that?

13 MS. MANWARREN: If you have a 10
14 megawatt -- I mean a 10 kilowatt generator, and
15 you had it derated --

16 PRESIDING MEMBER GEESMAN: Yeah, how do
17 you capture that on this form?

18 MS. MANWARREN: That would be in the net
19 nameplate rating, as opposed to the gross
20 nameplate rating.

21 MR. SOLT: This implies, then, that
22 there would be two nameplates. And most units
23 I've ever seen only have one nameplate. And so
24 you can have nameplate rating, that's it. And
25 it's not net or gross. Or you can say gross power

1 output, net power output, whatever way you want
2 to.

3 But to call two different things
4 nameplate, it doesn't exist.

5 MR. RAWSON: I thought that by
6 specifying net output of the generating facility
7 that we would have the ability to understand if
8 there's any kind of derating.

9 MR. KELLY: Okay, we'll concede that.

10 MR. RAWSON: Yeah, I think that's a
11 better approach.

12 MR. TUNNICLIFF: Sorry about that.

13 MR. RAWSON: Not a problem at all;
14 that's why we're doing this.

15 MR. TUNNICLIFF: Okay. Any other
16 comments on part three?

17 Part four deals with the additional
18 loads.

19 MS. JONES: We just have one more place
20 where we have, on page 5, where you have generator
21 two and three, you also have the gross nameplate
22 and the net nameplate that you need to correct.

23 MR. TUNNICLIFF: We'll make sure that
24 that gets carried throughout.

25 MS. SAVILLE: Let me just ask a rather

1 mundane administrative question on that point. If
2 I've got four 200 kilowatt systems or engines that
3 are exactly the same, can I save myself time and
4 put "same as one"?

5 MR. TUNNICLIFF: Exactly. One of the
6 comments that we got last time and we installed,
7 or at least put a space. Maybe it needs to be
8 called out in a more clear form. Is if all the
9 generators' facilities --

10 MS. SAVILLE: I've got it.

11 MR. TUNNICLIFF: Okay.

12 PRESIDING MEMBER GEESMAN: Part four.

13 MR. TUNNICLIFF: Okay, part four. We
14 added in a section or line that talks about the
15 generating facility will not supply electric
16 energy to individuals or entities other than the
17 customer identified in this application. And then
18 also left in boxes to include generator facility
19 will supply electric energy to third-party loads
20 and identifying what loads that generator is
21 supplying.

22 The thought that we have with regard to
23 keeping this in this section, we definitely need
24 some guidance as to how else a party that would be
25 served by a generator that's not owned by that

1 customer, say an over-the-fence transaction, how
2 would they possibly get into the application
3 process.

4 Our thought is if we have this
5 information at the time of the interconnection, or
6 at the time of this application being submitted on
7 behalf of this customer that owns the generator,
8 this is an opportunity for us to identify where
9 those loads are being served so we can make sure
10 that that customer being served by the generator
11 not owned by that customer, is applying for or
12 will be applying for an exemption. The
13 process that has been laid out with the regs does
14 not account for dealing with that as far as we can
15 see.

16 PRESIDING MEMBER GEESMAN: Is that
17 something that you think my Commission should be
18 concerned with?

19 MS. MANWARREN: Well, for the sake of
20 maybe granting double exemptions it should be
21 considered.

22 PRESIDING MEMBER GEESMAN: So that the
23 problem would be that absent this information
24 there potentially would be an opportunity to have
25 double exemptions?

1 MS. MANWARREN: Yes.

2 MS. JONES: But each customer has to
3 file for an exemption, so how do you have double
4 exemptions?

5 MR. TUNNICLIFF: Well, if each customer
6 has to file for the exemption, in addition to
7 that, another point that we have, is how else will
8 that person that's filing for this exemption that
9 doesn't have intimate knowledge of this generator,
10 identify or get in the process.

11 PRESIDING MEMBER GEESMAN: Seems to me
12 that's the generator's problem and liability. And
13 I guess my perspective, and several parties when
14 we had our workshop before, suggested a more
15 expansionist view of our responsibilities than
16 ultimately the Committee adopted.

17 My perspective on this is really a de
18 minimis one, that each area that the Energy
19 Commission is asked to take action on relating to
20 these responsibilities I'd like to do what we have
21 to and nothing more.

22 And I am wary of the expansionist
23 approach as getting us into the middle of things
24 that are better dealt with at the Public Utilities
25 Commission.

1 As I think many of you know, we have a
2 number of jurisdictional interface questions with
3 the Public Utilities Commission. I'd like to keep
4 this one as amiable and non-friction-oriented as
5 possible. So absent a compelling public purpose
6 for why the Energy Commission needs to be
7 concerned about something, my inclination is
8 toward a de minimis approach as it relates to the
9 regs, and as it relates to the forms.

10 And I think on this one, as I understand
11 it, it's somebody else's problem, not the Energy
12 Commission's.

13 MS. MANWARREN: But it is the utilities'
14 problem.

15 PRESIDING MEMBER GEESMAN: Yes.

16 MS. MANWARREN: And that's what we're
17 asking for is some direction on how to handle that
18 scenario, and how to capture that information so
19 there are not duplicate exemptions.

20 PRESIDING MEMBER GEESMAN: And the
21 potential for duplicate exemptions, I think, lies
22 with the customer and with the generator. And
23 there are liability consequences that flow from
24 that.

25 I don't know that the Energy Commission

1 needs to take in more information than we
2 absolutely require for a specific application in
3 order to prevent that hypothetical potential of
4 duplicate exemptions.

5 MS. MANWARREN: Okay.

6 MR. TUNNICLIFF: One issue that can come
7 up, and I understand the position on that, if the
8 timing isn't right and thinking through a customer
9 installing a 10 megawatt unit, say they plan to
10 serve 2 megawatts over the fence, so what we
11 actually count towards the cap is 8 megawatts.

12 If the applications don't come in at the
13 same time, or we don't know at or about the same
14 time that parties being served by the 2 megawatts
15 comes in later, say six months, and it happens to
16 be at one of the milestones where the cap is close
17 to being exceeded, that customer will not be
18 eligible for the exemption. Or may not be
19 eligible for the exemption. That's a thought.

20 PRESIDING MEMBER GEESMAN: And that is a
21 risk. I acknowledge that that is a risk, and I
22 think that's a risk that we end up having to
23 absorb.

24 Other comments on part four?

25 MR. TOMASHEFSKY: So, Commissioner

1 Geesman, your recommendation is to eliminate the
2 section entirely?

3 PRESIDING MEMBER GEESMAN: That's
4 correct.

5 MR. TUNNICLIFF: Eliminate the section
6 in its entirety?

7 MR. TOMASHEFSKY: Right.

8 PRESIDING MEMBER GEESMAN: Yeah. Part
9 five.

10 MR. TUNNICLIFF: Part five hasn't
11 changed significantly except for the fact that in
12 part one or section one, whether or not a facility
13 is eligible for financial incentives from a CPUC
14 self-gen incentive program or a CEC incentive, the
15 utilities felt that you need to have some step in
16 the process. If it's self-gen incentive program,
17 or the CEC's process, those are managed by other
18 entities.

19 In Southern California Edison's
20 territory we managed the self-gen incentive
21 program as well as The Gas Company. So, The Gas
22 Company can be applying incentives that we don't
23 know about with regard to evaluating the facility
24 for the self-gen incentive program.

25 In San Diego Gas and Electric's

1 territory they don't even manage their own self-
2 gen incentive program. The San Diego Regional
3 Energy Office manages that process.

4 So, designing this staff for provisional
5 categorization to a step very late in the process
6 after proof of project advancement, after the
7 program administrators have already reviewed the
8 applications and reviewed that they are eligible,
9 that's what we believe we need to rely upon.

10 Same with the CEC program. We don't
11 manage that; we don't know the criteria that's
12 used, so we'd like to rely upon the program
13 administrator's definition or determination of
14 eligibility, not something that we have to
15 internally review.

16 And that's the reason for the third
17 bullet is other proof to be determined by the
18 CPUC. And again, I explained the rationale of the
19 position there.

20 MS. SAVILLE: Just a suggestion. If AB-
21 1685 is signed by the Governor, while I haven't
22 discussed this with anyone at the PUC, but my
23 assumption is that a phase would need to be opened
24 in the self generation rulemaking proceeding in
25 order to establish a whole host of new criteria

1 and administrative procedures for implementing for
2 next year, at that time, if it happens
3 expeditiously that might be a good opportunity to
4 kick this to the PUC officially.

5 And if we have to get something in an
6 interim, and if that process doesn't happen as
7 quickly as we'd like, perhaps the CEC or the CPUC
8 staff in that rulemaking could discuss some
9 interim form process that would be not cumbersome,
10 but that would also not require full application
11 for funding, but simply a determination that
12 current eligibility criteria are met.

13 PRESIDING MEMBER GEESMAN: Other
14 comments on part five?

15 MR. TUNNICLIFF: There's one or two
16 other small changes. It was recommended that the
17 sentence or the section referencing the UC and CSU
18 systems be -- it was worded somewhat awkwardly.
19 And Clyde provided some good clarification, I
20 think. Did I hit it?

21 MR. MURLEY: (inaudible).

22 MR. TUNNICLIFF: Okay.

23 MR. TOMASHEFSKY: Just for the court
24 reporter Clyde indicated that he was hoping that
25 Dan had hit it with the last workshop. He's going

1 to check.

2 MR. TUNNICLIFF: I think so; I hope so.

3 PRESIDING MEMBER GEESMAN: Anything else
4 on part five? Okay.

5 MR. TUNNICLIFF: And part six. Again,
6 there was much discussion about the 353.2
7 definition, the Public Utilities Code. And
8 especially since it's tied to CARB certification,
9 the air emissions piece. It also has an
10 operational component, as well.

11 We added in the line that the generating
12 facility has been certified by CARB as ultra clean
13 and low emissions. And CARB certification
14 documentation is attached.

15 We've also separated out from
16 recommendations from the group that the definition
17 of the -- the boxes for definition of ultra clean
18 and low emissions be separated to clearly
19 delineate facilities that produce zero emissions,
20 and away from those facilities that are operating
21 combined heat and power.

22 And what we said last time and the
23 previous time, and we'll reiterate, this section,
24 you know, relies heavily on CARB's determination
25 and their input, so absent getting further

1 clarification from them as to how the efficiency
2 portion of this definition is designed to work, we
3 need some additional input. And this is our best
4 guess at what that might look like.

5 MR. TOMASHEFSKY: It's been difficult
6 getting CARB to participate in the development of
7 this form. They did indicate, I thought that they
8 had indicated that this algorithm at least, that
9 was put up here, looked appropriate. And I think
10 that's about the extent of what they said to it.
11 There doesn't seem to be anything underlyingly
12 wrong with this calculation.

13 PRESIDING MEMBER GEESMAN: Do you
14 anticipate getting anything more from them?

15 MR. TOMASHEFSKY: Not unless we directly
16 ask them, and it's very limited in scope. I know
17 that they're very heavily busy with some other
18 regulations.

19 MS. JONES: But just to clarify, if it's
20 on the CARB list then it is assumed to meet the
21 requirement outlined in the bulleted item number
22 four that it operates within the limit.

23 MR. TOMASHEFSKY: Well, I think that's
24 the area of confusion of 353.2. And perhaps,
25 Chuck, why don't you go into the --

1 MR. SOLT: I didn't understand the
2 question you just asked me.

3 MS. JONES: Is there an implicit
4 assumption here in administering this, for ease of
5 administration, that if it's on the CARB list it
6 then meets the language here under four which says
7 operating by combustion must operate within a
8 combined heat and power application at 60 percent.

9 MR. SOLT: No. There are two components
10 to the 2007 regulations from CARB. One of them is
11 for small units that don't require permits. And
12 those have to be certified.

13 And so the first box says are you a
14 small unit that has to go through the
15 certification process. And if you x that, I'm
16 assuming that by the time we get all this 353.2
17 clarification done, that's it. You are certified
18 under 353.2. End of story.

19 The ones that do need permits don't get
20 certified. And so if they do need a permit if
21 they are of a size that these units require
22 permits, then it would fall under the guidance
23 document. And the guidance document that is the
24 one that goes on to talk about operational.

25 And so I would envision that a person

1 would check either the first or the fourth box.
2 The first does not imply compliance with the
3 fourth.

4 The other thing, the comment that I was
5 going to make if it's appropriate to do it at this
6 point, is that if you're demonstrating compliance,
7 either by signing the first or the fourth block,
8 one or the other, it would appear to me that the
9 last three blocks then are unnecessary.

10 You can go ahead and leave the
11 calculations over there for a person to work
12 through whether they can sign that fourth block or
13 not. And that the calculation information over on
14 page nine would be irrelevant if the guy is, in
15 fact, certified.

16 But there's nothing that really says
17 that, and I think it should.

18 MR. TOMASHEFSKY: So, Chuck, you're
19 suggesting that if you check box four then you go
20 through the calculations. And then you don't need
21 to --

22 MR. SOLT: Well, someone would have to
23 go through the calculations in order to determine
24 whether you can sign box four, yes.

25 MR. TOMASHEFSKY: Right, right. And so

1 there's no reason to have boxes five, six and
2 seven, because that's part of the algorithm --

3 MR. SOLT: I would think not, yes.

4 MR. TOMASHEFSKY: Would you agree with
5 that, Dan? Is that --

6 MR. SOLT: And the other clarification
7 is if you check box one then all the algorithms on
8 page nine are inappropriate. Just ought to have a
9 note that if -- probably on box four, you know, to
10 determine compliance with this use the algorithm
11 on the next page.

12 MR. TUNNICLIFF: Chuck, one question. I
13 don't know that if you check box one that the
14 other calculations would be unnecessary. I don't
15 know that. And please tell me if I'm wrong,
16 whether or not CARB has determined or identified a
17 methodology for certifying at the 2007 with the
18 efficiency components. I don't know.

19 MR. SOLT: Absolutely. Absolutely, --

20 MR. TUNNICLIFF: Okay.

21 MR. SOLT: -- standard requires 70
22 percent efficiency. So, it's on the website; you
23 can take a look at it.

24 MR. TUNNICLIFF: Okay.

25 MR. SOLT: And as far as the vendors are

1 concerned they are obligated to certify it before
2 they can sell it in California. And once they've
3 done that, the process is over.

4 MR. TOMASHEFSKY: So, Chuck, are you --
5 walking through this one step further -- are you
6 comfortable with these exception qualifications
7 the way they're listed in the first four as --

8 MR. SOLT: First four, yeah.

9 MR. TOMASHEFSKY: Okay.

10 MR. SOLT: They're completely
11 appropriate. And thank you for putting the first
12 one on.

13 MS. JONES: You just want clarification
14 that you only have to fill out the calculation if
15 you're checking box four?

16 MR. SOLT: That's right.

17 MR. TOMASHEFSKY: And you're also --
18 just as you sit down, Chuck, -- and you're also
19 suggesting the elimination of five, six and seven
20 as far --

21 MR. SOLT: Yes. It's implicit.

22 MR. RAWSON: Dan, can we put a note or
23 something at the beginning of the calculation
24 section that states basically complete only if,
25 you know, or something like that, so that they

1 know to avoid going through that exercise or
2 something? Or even a -- of one?

3 MR. TOMASHEFSKY: I think actually it's
4 buried in the end of bullet four; just probably
5 needs a little bit of language change --

6 MR. TUNNICLIFF: It's buried in the end
7 of four, but it would probably be good to clarify
8 it and start at the calculation section two. No
9 use --

10 MR. RAWSON: Yeah, I guess my concern
11 was that if they check off on one maybe they're
12 not going to go look at four. And then they go to
13 the next page and they're thinking they have to
14 provide all this information when we really don't
15 need it.

16 PRESIDING MEMBER GEESMAN: That's the
17 way I do my tax forms.

18 (Laughter.)

19 PRESIDING MEMBER GEESMAN: Really makes
20 me upset.

21 MS. MANWARREN: That's the next step, is
22 to try to make that process a little bit more
23 clear, that if you've completed this then you can
24 skip and go over here. So, we're still working on
25 that.

1 I had one other question about that
2 Chuck just mentioned about the CARB site. On the
3 certification. I think that's good for four
4 years, is that correct? And then it's --

5 MR. SOLT: I can't remember the number
6 of years. And you can certify different levels or
7 a number of different things on there. But if
8 it's clear, the first block, by checking it you
9 have an appropriately certified unit, legal for
10 sale in California, that would be all you would be
11 looking for.

12 MR. TOMASHEFSKY: I understand it's a
13 four-year certification, but they're also
14 intending to re-look at their regs in 2005. So
15 we'll see what --

16 MR. TUNNICLIFF: Do you think that it
17 would be, looking at the four boxes, or the boxes
18 one through four, specifically box number two, or
19 section number two, it says customer owns. And
20 since it's timed to that definition, and I know
21 1685 is changing the timeline for when ultra
22 clean, should that not be the first box that's
23 checked? Because that's applicable no matter if
24 it's certified, or if you go through the
25 calculation. Just a thought on that. Because you

1 got to click that anyway.

2 That way the customer can complete that
3 box; go to whether or not are you certified. If
4 you're certified, you're done. If you need to do
5 the calculation you continue on.

6 MR. TOMASHEFSKY: Absolutely because
7 that one's required. If you don't pass that one
8 it doesn't matter if you're certified.

9 PRESIDING MEMBER GEESMAN: Other
10 comments on part six? As I understand it then,
11 we'll delete the bottom three boxes.

12 MR. TOMASHEFSKY: That's my
13 understanding, as well.

14 PRESIDING MEMBER GEESMAN: Change the
15 sequence of box number two to be the first one.
16 Provide some clarifying language that the
17 calculation is required only for those checking
18 box number four.

19 MS. MANWARREN: I'd like to ask the
20 vendors is everybody clear with the acronyms that
21 we have in part six in the calculations? Or do
22 you see any need for calling those out definition-
23 wise? Or are they pretty standard in your
24 opinion? In the calculation portion of the
25 affidavit.

1 MR. SOLT: (inaudible).

2 MS. MANWARREN: Okay, thank you.

3 MR. TUNNICLIFF: Okay.

4 PRESIDING MEMBER GEESMAN: Okay, why
5 don't we move on then to part seven.

6 MR. TUNNICLIFF: Part seven -- should I
7 turn it over to Chuck?

8 MR. SOLT: Oh, you're going to turn it
9 over to me. First of all I'd like to thank you
10 for putting the first box on there. But I'd like
11 to see that clarified a little bit better.

12 FERC has qualification procedures,
13 certification procedure. And if a facility is
14 certified with FERC it would seem to me that going
15 any further on this item number seven would be
16 unnecessary and inappropriate.

17 MS. HOUCK: Just to add another comment.
18 Looking at the decision from the CPUC when they're
19 talking about CTC exemptions it pretty much is
20 only applying to the overall exemptions for
21 facilities under 1 megawatt that are either net
22 metering or qualified for the CEC or CPUC program,
23 or if they're already statutorily exempt.

24 So, for purposes of our determination I
25 guess I'm just wondering, do we really need to

1 address the CTC.

2 MR. TUNNICLIFF: I believe you do, and
3 for the category ultra clean and low emissions, if
4 you're not operating in a cogen mode the decision,
5 I believe, requires tail CTC; it does not exempt
6 one from tail CTC.

7 And then the other customer gen section,
8 if you're not operating combined heat and power
9 application you're also required to pay tail CTC.
10 And it's all part of the departing load decision.

11 MS. HOUCK: Right, I understand that if
12 you're over 1 megawatt and your clean or ultra
13 clean you're not exempt from CTC unless you're
14 qualified under the statute. And the same for
15 facilities that are not ultra clean.

16 But I guess that would be information
17 the utilities would need to know whether they were
18 statutorily exempt or not. But there really is no
19 CRS exemption for facilities over 1 megawatt is my
20 understanding from reading this. There's no
21 additional CTC exemption.

22 MR. TUNNICLIFF: I don't know if I
23 understand that.

24 MS. MANWARREN: If you could rephrase
25 that question?

1 MS. HOUCK: Okay. On ordering paragraph
2 decision -- on ordering paragraph seven it states:
3 customer generation departing loads that is under
4 1 megawatt size and eligible for net metering pays
5 DWR charges based on their net energy consumption
6 and are not required to pay any of the other CRS
7 components adopted in this decision.

8 And then it states customer generation
9 departing load that is under 1 megawatt in size
10 and eligible for financial incentives from the
11 CPUC self generation program or from the CEC are
12 not required to pay any CRS including DWR bond
13 charge, DWR ongoing power charges, and any SCE or
14 potential other utility historic procurement
15 charges and the tail competition transaction
16 charge CTC.

17 So if you're under 1 megawatt that
18 exemption is going to be given by the utilities
19 automatically and you're going to give us the
20 megawatt number basically. But you're going to
21 give that automatically and they would be exempt
22 from CTC if they qualify under paragraph seven?
23 And that's your understanding, right?

24 MR. TUNNICLIFF: I don't know about
25 automatically. They're going to go through the

1 process of the application and we're going to
2 determine whether or not they actually qualify for
3 those criteria. And --

4 MS. HOUCK: Well, but if they do the
5 utilities would automatically grant the exemption.

6 MS. MANWARREN: They still have to --

7 MS. HOUCK: Right, they still have to
8 fill the form out --

9 MS. MANWARREN: Yeah, SGIP monitors
10 that.

11 MS. HOUCK: -- to go through the
12 checking of boxes for you to automatically give
13 them that exemption per the decision.

14 MR. TUNNICLIFF: Okay.

15 MS. MANWARREN: I see your point. I see
16 your point.

17 MR. TUNNICLIFF: Okay.

18 MS. HOUCK: Okay, now under paragraph
19 eight it says customer generation departing load
20 that's over 1 megawatt in size, but otherwise
21 meets all criteria, Public Utilities Code section
22 353.2 is ultra clean and low emissions, shall pay
23 DWR bond charges and tail CTC if not otherwise
24 exempted by the Public Utilities Code.

25 MR. TUNNICLIFF: Right.

1 MS. HOUCK: And so -- and also the
2 facilities that are not ultra clean or low
3 emissions would also pay CTC, correct? Unless
4 they're statutorily exempt --

5 MR. TUNNICLIFF: Correct.

6 MS. HOUCK: -- you're going to have to
7 pay those charges. So I guess my question is what
8 is the Energy Commission really determining as to
9 CTC exemptions if everything over 1 megawatt is
10 going to pay unless it's statutorily exempt.

11 MS. MANWARREN: We included that because
12 of the tail CTC being included as CRS fee or
13 charge. And as part of determining whether or not
14 you qualify you have to bring in the calculation
15 for the 218-5. Normally that is handled by the
16 SGIP folks for those people up to 1.5 megawatts.
17 But anybody above that, we would need to see the
18 information, the calculation, in order to qualify
19 for that CTC exemption.

20 MS. HOUCK: But it's really for the
21 statutory exemption that you're talking about.

22 MR. TUNNICLIFF: Are you -- let me try
23 to think about where you're going with this.
24 Because the CEC doesn't have responsibility for
25 anything other than the megawatt cap, you're

1 proposing that that's not necessary as part of the
2 departing load application?

3 MS. HOUCK: I guess we're --

4 PRESIDING MEMBER GEESMAN: That's my
5 sense.

6 MS. HOUCK: Yes.

7 PRESIDING MEMBER GEESMAN: I mean again
8 I'd characterize this as another expansionist
9 question that --

10 MR. TUNNICLIFF: Well, one of the
11 biggest concerns that we have in the process that
12 we proposed originally and one of the principles
13 that we laid out when we set up this, proposed a
14 process, set up this application form and what-
15 have-you, is to put it in the hands of we
16 understand that the CEC has the responsibility of
17 overall oversight of this process.

18 To the extent that a customer is
19 applying for an exemption or applying for a tariff
20 exemption we're trying to incorporate all things
21 that customer will be exempt from. And to the
22 extent possible, integrate these forms.

23 What you're setting up by not including
24 that in this is another form that the customer
25 will have to fill out to get all of the exemptions

1 that the departing load decision lays out.

2 So that's the biggest caution I have --

3 PRESIDING MEMBER GEESMAN: Yeah, I think
4 that's the other side of the question. Whether or
5 not there's some program efficiency or economy to
6 be gained by bundling that information requirement
7 into our form.

8 I guess I'd want to know a little bit
9 more about what are the ramifications of doing so.
10 Does that bring issues along with it that end up
11 in front of this Commission that the other
12 Commission may feel, hey, that's not your job to
13 be ruling on.

14 MR. TUNNICLIFF: I see where you're
15 headed with that. But, you know, one of the
16 things that we also are trying to be mindful of is
17 the fact that, you know, we don't want to -- we
18 have enough forms as it is.

19 And to the extent that we can bundle all
20 of these forms together, while you may not
21 necessarily have a direct oversight or direct use
22 for that, it seems to me that our customers would
23 want to have only one application ultimately. I
24 can't imagine our customers being all that excited
25 about multiple forms. And I don't know if anyone

1 wants to weigh in on that.

2 MS. SAVILLE: Currently customers
3 submitting interconnection applications don't have
4 to do the calculation for CTC. We simply certify
5 it by virtue of the information that's otherwise
6 contained in that application, that we are
7 eligible under the statute for that exemption.

8 Could it not be made very simple for
9 purposes of this form and the utilities joint
10 administration to simply have a place here that is
11 really just one box that says we are statutorily
12 exempt and are certified to that effect in our
13 interconnection application and agreement?

14 And secondly, if we're not required to
15 provide that calculation on a separate form as
16 part of an interconnection application outside of
17 the administration of all of the other CRS
18 exemptions, why would we need to do it now?

19 But if there is some missing link
20 between what the utilities receive in the IC
21 applications, and this, and whether or not we're
22 statutorily exempted, and whether or not that
23 applies to the CRS, I think that's the bridge
24 we're trying to get to.

25 PRESIDING MEMBER GEESMAN: You're

1 concerned with the calculation requirement?

2 MS. SAVILLE: I'm concerned that the
3 utilities feel that they have enough information,
4 but that also the end-use customers and others
5 are -- and the Energy Commission are doing what we
6 need to do expeditiously, but not over-burdened.

7 PRESIDING MEMBER GEESMAN: Yeah. But if
8 I understand your comment, if we eliminated the
9 calculation aspect of part seven you don't have a
10 concern about bundling the information requirement
11 along with these CRS exemption forms?

12 MS. SAVILLE: Only from your point of
13 view. And I think you're right, it's not
14 technically part of the CRS exemption components,
15 other than the decision ties it. But you're
16 either statutorily exempt or you're not.

17 PRESIDING MEMBER GEESMAN: Yeah, and I
18 guess my apprehension is if there's a dispute as
19 to whether someone is statutorily exempt or not,
20 I'm not certain that that's an issue that should
21 come in front of the Energy Commission.

22 And I guess I'm wary of creating an
23 expectation that it would come in front of the
24 Energy Commission. I don't think that we have the
25 authority to make that type of determination.

1 MS. JONES: Can I ask a clarifying
2 question, Tracy, about when you talked about your
3 application for interconnection you already have
4 to certify in that application whether you are
5 statutorily exempt.

6 MS. SAVILLE: Correct.

7 MS. JONES: So the utility already has
8 that information; it's in a separate form.

9 So I'm wondering why the utility would
10 want to have another form to collect that
11 information.

12 MR. TUNNICLIFF: Well, the idea behind
13 that is if it's being collected, and this is
14 outside of the scope of necessarily this
15 proceeding, but there has been talk about pulling
16 out some tariff-related information out of the
17 rule 21 applications and make it more purely
18 interconnection related and migrate tariff-related
19 information outside of that.

20 Obviously not part of this proceeding
21 and not necessarily part of where you're headed.
22 But it's just an opportunity.

23 We would not want to collect it more
24 than we have to. Believe me, we have enough paper
25 that we sift through and want to manage that

1 appropriately, so.

2 PRESIDING MEMBER GEESMAN: Is there a
3 timing question? I mean is it of more value to
4 you early, as I would characterize this, rather
5 than later when you get the interconnection
6 application?

7 MR. TUNNICLIFF: The only advantage that
8 we see, and when we're talking, and we'll head
9 into it on part eight, the section that the
10 utilities collect and fill out, discuss what do
11 the customers need to do to get final
12 categorization and get the exemptions granted and
13 finish off their application.

14 We want to be able to tell that customer
15 when you do this you will be eligible for all of
16 these different exemptions. And it's just an
17 opportunity for us to know that ahead of time.
18 Otherwise, we're not going to be able to tell them
19 whether or not that they are until they get to the
20 interconnection application.

21 Again, we're trying to streamline the
22 process and we would, to the extent that there was
23 duplicate collection, if it's interconnection
24 application and part of this, we'd like to clean
25 those things up as we go along, as well.

1 MS. JONES: So then would the suggestion
2 that you put a box there instead of what you have
3 that says we are statutorily exempt be sufficient
4 for you, for your purposes in making the
5 determination in part eight?

6 MR. TUNNICLIFF: I don't know that I can
7 answer that.

8 MS. MANWARREN: PG&E has submitted a
9 filing with the Commission -- it's not yet
10 approved -- that would require the calculation
11 regardless of the CEC process.

12 So if we could just tie the two together
13 it would work.

14 PRESIDING MEMBER GEESMAN: Yeah, we can
15 come back to that, though, later, it seems to me,
16 after those decisions are made, than making the
17 presumption now that we ought to bundle them all
18 together.

19 Again, I'm real apprehensive about this
20 Commission getting pulled into jurisdictional
21 areas that the other Commission properly occupies.
22 Jonathan, did you have something?

23 MR. TEAGUE: At the risk of walking into
24 a regulatory thicket, I'd like to offer some
25 thoughts about this.

1 The customers we deal with, the
2 Department of General Services, are pretty
3 sophisticated. So we don't really have a problem
4 with looking at different forms and making these
5 kinds of determinations.

6 But I think I'm really in sympathy with
7 Edison's position on this. It really does make
8 sense to give the customer, as they walk into this
9 process, a single form to go through and make
10 these determinations. They may or may not be
11 aware of all the exemptions to which they are
12 qualified.

13 Just glancing at the decision here, the
14 ordering paragraph that gets the CEC involved in
15 collecting data doesn't really put you all in line
16 of having to enforce anything, or make
17 determinations about CTC qualifications. It
18 simply is just having the Energy Commission
19 collect the information and forward that.

20 So, I don't think you need to be wary
21 about getting hung up in statutory determinations
22 of CTC eligibility -- exemption eligibility or
23 not. That clearly would still rest with the
24 Public Utilities Commission.

25 So, just in terms of administrative

1 simplicity and having a single form, and not
2 having to go back and revisit these regulations or
3 the forms later on I'd suggest it might be worth
4 it to go ahead and just leave this here.

5 PRESIDING MEMBER GEESMAN: Would you
6 strike the calculation requirement?

7 MR. TEAGUE: Well, my suggestion there
8 would be to complicate it just a little bit.
9 Maybe put the check box in there. If the customer
10 knows that they're statutorily exempt, just have
11 them check that. If you're not sure you're exempt
12 you can go through the following calculation and
13 arrive at the result, and then submit that.

14 But there's really only one process they
15 have to go through at that point.

16 PRESIDING MEMBER GEESMAN: Yeah.

17 MR. TEAGUE: That would be my
18 suggestion. Thank you.

19 MS. MANWARREN: Ordering paragraph 15
20 goes into the tail CTC. It states that the tail
21 CTC will be defined and calculated consistent with
22 the text of this order.

23 Part of what we felt we were tasked with
24 when we started working on this form was to try to
25 make it as user-friendly as possible. And being

1 well aware of the fact that there are too many
2 forms out there, and it's confusing for all
3 parties, that's the focus that we had.

4 And the understanding that CTC does
5 involve calculations for 218.5 exemptions is why
6 it's in there.

7 PRESIDING MEMBER GEESMAN: But if
8 someone self-certified without making the
9 calculation would that person still qualify?

10 MS. MANWARREN: They would have to
11 demonstrate that they are qualified.

12 PRESIDING MEMBER GEESMAN: Demonstrate
13 to whom?

14 MS. MANWARREN: The utilities, in order
15 to be granted the exemption.

16 PRESIDING MEMBER GEESMAN: And that
17 provision is in the statute or --

18 MS. MANWARREN: It's in 372 and 374.
19 And 218-5.

20 PRESIDING MEMBER GEESMAN: So what if
21 there's a dispute?

22 MS. MANWARREN: That's a good question.
23 They either -- the math either speaks to the fact
24 that they qualify or they don't. And more
25 attempts to qualify would have to be made.

1 PRESIDING MEMBER GEESMAN: But the
2 dispute resolution process then comes back to this
3 Commission.

4 MS. MANWARREN: We wanted to give that
5 ability to you and give you the black hat, to be
6 truthful, so --

7 PRESIDING MEMBER GEESMAN: I don't mind
8 the black hat, but the Warren Alquist Act gives me
9 enough. I don't need to go into the Public
10 Utilities Code to find it.

11 MS. MANWARREN: Understood.

12 PRESIDING MEMBER GEESMAN: Does staff
13 have any reaction?

14 MR. TOMASHEFSKY: I like the notion of
15 having a self-certification box and the option of
16 being able to fill out the form. I think that's
17 probably the cleanest way to deal with it. At
18 least it gives the customer some expectation of
19 what they need to do in terms of filling out the
20 form.

21 PRESIDING MEMBER GEESMAN: Well, some
22 certain program efficiency overall that presumably
23 the customer would be interested in in that
24 approach. I think the notion of trying to bundle
25 the different form requirements together is

1 attractive from the customer's standpoint.

2 Where I get apprehensive is the
3 calculational aspect. You know, if somebody can
4 certify without making the calculation, that's
5 okay. PG&E suggests that no, that's not
6 sufficient to qualify for the exemption. You've
7 got to satisfy the utility with the calculation.

8 Where it creates problems, I think, is
9 that it automatically gets into our dispute
10 resolution role. And before you know it, we're
11 adjudicating disputes that the Public Utilities
12 Commission actually has jurisdiction over.

13 MS. MANWARREN: It's actually not the
14 utilities. Let me restate that. We are trying to
15 be in compliance with the Public Utilities Code.
16 That's our reason for requiring it.

17 PRESIDING MEMBER GEESMAN: But the code
18 suggests that you need to verify a calculation as
19 opposed to accepting a certification.

20 MS. MANWARREN: Did you have a comment
21 on that? I heard you --

22 MS. JONES: I didn't think that it did.
23 That 372 says you have to have a calculation to
24 verify that. When Darcie read the language
25 earlier it didn't include any reference to a

1 calculation. I understood you to say that you had
2 applied to the PUC to include a calculation, but
3 that wasn't part of the statute.

4 MS. MANWARREN: The form, the document
5 that demonstrates the calculation, we're pulling
6 that from 218.5 FERC requirements, which is in the
7 PUC code.

8 MS. JONES: So they have to do the
9 calculation under 218.5?

10 MS. MANWARREN: I don't know how else
11 you would know if you were efficient, if you're
12 going to meet the benchmark for efficiency, I
13 don't know how else you'd do it except by doing
14 the calculation.

15 MS. SAVILLE: If you do apply to FERC
16 under 218.5 and you received that certification,
17 then you do do --

18 PRESIDING MEMBER GEESMAN: That's the
19 end of the story, isn't it?

20 MS. SAVILLE: Correct.

21 PRESIDING MEMBER GEESMAN: Yeah. Well,
22 you know, this is pushing me toward one of the few
23 things I remember from law school, which is when
24 in doubt read the statute. Does anybody happen to
25 have the statute with them? I mean it --

1 MS. HOUCK: I have the 360 through
2 379.5. I don't have 218 with me.

3 PRESIDING MEMBER GEESMAN: Is there a
4 calculational requirement in the statute? Or is
5 it rather the utilities' interpretation that the
6 best way to apply the statute is to require the
7 calculation?

8 MS. HOUCK: For 372 I don't see a
9 reference to a specific calculation there, but I
10 don't have 218 in front of me.

11 I mean it refers to the Commission
12 making certain determinations regarding the
13 applicability to customers.

14 PRESIDING MEMBER GEESMAN: Yeah, and
15 they ain't talking about our Commission, are they?

16 MS. HOUCK: No, they're not.

17 MS. MANWARREN: Here again we can wait
18 till we get clarification on the form that we have
19 filed with the Commission.

20 PRESIDING MEMBER GEESMAN: Okay. I
21 guess my inclination would be that we don't need
22 this information now. And I sure don't want to
23 get involved in interpreting calculations or
24 statute or eligibility if it's not directly our
25 responsibility.

1 Is there some program efficiency
2 argument that should compel us to provide, in the
3 customer's interest, the ability to self-certify
4 in these forms, and then simply be done with it?
5 If down the road we need to include a
6 calculational attribute we can do so.

7 MS. HOUCK: And there may be a way -- if
8 the PUC is going to approve a specific form with a
9 calculation submitted by the utilities, there may
10 be a way for us to approve our form to the extent
11 we need to make our determinations. And I don't
12 know that there would be anything to prevent the
13 utilities from sending both forms together as one
14 package to a customer.

15 PRESIDING MEMBER GEESMAN: Yeah, but
16 they raise, I think, a compelling argument that,
17 you know, this thing is too many pages now. The
18 customer has to deal with too many forms now.
19 Simply adding another one into the same envelope
20 doesn't quite achieve the program efficiencies
21 we're looking for.

22 MR. TUNNICLIFF: We agree. And that's,
23 you know, I like the idea of including a box for
24 statutorily exempt and certifying there. And at
25 the option of the customer, if they want to go on

1 and complete that application I think it's good to
2 have all of it there.

3 If we need to take it out, and we're
4 directed to do so, we're likely going to be
5 collecting it at another point in the process.
6 And to the extent that we continue to morph these
7 processes, we always want to make these things as
8 customer-focused and friendly as possible, so.

9 PRESIDING MEMBER GEESMAN: Well, I
10 thought General Services' comments were helpful in
11 terms of providing basically a guideline as to how
12 someone would qualify by using the calculation.

13 What I want to avoid is if somebody
14 disagrees with the utilities' interpretation of
15 the math or interpretation of the statute I don't
16 want them coming here. Because that's not our
17 jurisdiction.

18 MR. TUNNICLIFF: Right, I understand
19 that.

20 MS. HOUCK: And we could potentially
21 clarify that in any approval of forms that we do
22 that we're approving it for purposes of data
23 collection.

24 PRESIDING MEMBER GEESMAN: Okay.

25 MS. HOUCK: And disputes regarding

1 substantive matters would be need to be addressed
2 with the California Public Utilities Commission.

3 PRESIDING MEMBER GEESMAN: Okay. Well,
4 I think this needs some work. I'm not certain how
5 much more guidance I can provide. I'm probably
6 all over the map. I'm in favor of program
7 efficiency. I'm against imputing a calculational
8 requirement to a statute that doesn't explicitly
9 say that. I'm in favor of providing the
10 opportunity to do the calculation to the customer
11 if it will be helpful to him. And at all costs I
12 want to avoid jurisdiction over disputes.

13 MS. JOLIVETTE: If I may, perhaps in
14 this discussion the express terms about dispute
15 resolution issues and which agency has
16 responsibility for which parts of it, that might
17 be the place to clarify that 372 dispute
18 resolution issues would be with the Utilities
19 Commission versus other parts of CRS exemption.

20 PRESIDING MEMBER GEESMAN: Um-hum.

21 MR. TUNNICLIFF: So, yeah, whatever we
22 decide to do with this section we'll be very
23 explicit about that relationship.

24 PRESIDING MEMBER GEESMAN: Okay.

25 MR. RAWSON: I had one more question,

1 Commissioner. The one section down in here where
2 it says operated on the same parcel of land.

3 There was a comment at the last workshop that
4 actually that requirement was subsumed by 218.

5 I think -- I mean I don't know, I'm
6 asking this as a question -- on whether or not
7 that checkbox was still required, considering
8 checkbox four.

9 MS. MANWARREN: It could be an adjacent
10 parcel of land, as well. Not necessarily the same
11 parcel of land.

12 MR. TUNNICLIFF: But your question is
13 whether or not it's taken out. We're asking the
14 same question twice worded differently.

15 MR. RAWSON: Right.

16 MR. TUNNICLIFF: We can look at that,
17 because --

18 PRESIDING MEMBER GEESMAN: That could be
19 surplus.

20 MR. TUNNICLIFF: Yeah.

21 PRESIDING MEMBER GEESMAN: Anybody have
22 anything else on part seven? Okay, part eight.

23 MR. TUNNICLIFF: Part eight. This
24 section, and I guess what's up for discussion is
25 whether or not this gets included with the

1 application, since the customer is not completing
2 this part, it's for the utility to provide
3 guidance to the customer regarding the
4 application, that you're provisionally categorized
5 -- we've provisionally categorized your project,
6 final categorization will require the following
7 steps. And that's where this box is intended to
8 include what must be finalized for that piece.

9 In addition, we envision this being used
10 to transmit to the customer, once you've completed
11 and you've granted exemptions and we've finally
12 categorized your project, these are the exemptions
13 that you will receive.

14 In addition, we may get some additional
15 information that may help us with other exemptions
16 that may apply. But, again, this is to inform the
17 customer up front as to what exemptions they
18 actually are entitled to, based on completion of
19 the project as they set out.

20 And that's the thought in the process
21 behind this part eight.

22 MS. JONES: And then under this part
23 you're proposing that it would be part of the
24 package simply so the customer would know what's
25 here.

1 My question is about when this is
2 submitted to -- when this utility part is
3 submitted to the Energy Commission, does it at the
4 same time go to the customer?

5 MR. TUNNICLIFF: Yes.

6 MS. JONES: Okay.

7 PRESIDING MEMBER GEESMAN: So this is
8 something you fill out, and you send it to us and
9 to the customer?

10 MR. TUNNICLIFF: Right, because I
11 believe part of the express terms we have laid out
12 the fact that we'll provisionally categorize a
13 project and then specify what needs to happen to
14 get final categorization. And this is a mechanism
15 for doing that.

16 In addition, we're providing information
17 to that customer regarding their exemptions that
18 they're actually going to qualify for.

19 PRESIDING MEMBER GEESMAN: So the
20 customer, I'm presuming, would want to know this.
21 Knowing our insatiable curiosity, I'm sure we'd
22 like to know whatever you can tell us about this.

23 But it's not clear to me what its
24 function is in the process. And if the customer
25 gets it, and for example, thinks that it ought to

1 be exempted from, I don't know, TTA, is that one
2 of the things that we have authority over?

3 MR. TUNNICLIFF: No.

4 PRESIDING MEMBER GEESMAN: Then he's
5 back in front of me saying I ought to be exempted
6 from TTA, and he's not going to be very satisfied
7 when I say well, go talk to the Public Utilities
8 Commission.

9 I think I sense where you'd like to be
10 headed, and I think it probably makes a lot of
11 sense from morphing these programs together and
12 trying to minimize the amount of redundant
13 communication going on, but I don't know that the
14 other Commission wants us playing that large a
15 role in something that is outside the four corners
16 of their departing load decision.

17 MR. TUNNICLIFF: I see where you're
18 headed with that. Looking at this list, then,
19 which are the items do you feel that -- is it the
20 first two, then? Or just the DWR power charge?

21 PRESIDING MEMBER GEESMAN: I guess I
22 have more sympathy toward the whole list. I think
23 that we've got a fair amount of leg work to do in
24 soliciting the views of the PUC as to whether they
25 think this would be a desirable streamlining of

1 communication.

2 I'm not certain that it's something that
3 we've got the either legal jurisdiction or
4 intestinal fortitude to push forward right now,
5 absent that clarification with the PUC.

6 MR. TUNNICLIFF: Right, --

7 PRESIDING MEMBER GEESMAN: And let me
8 tell you, like any other governmental agency, they
9 are going to sense a jurisdictional land grab.
10 And I certainly don't have any aspirations for
11 that.

12 MR. TUNNICLIFF: Again, maybe that we
13 discussed earlier, the possibility of talking
14 about disputes or jurisdictional issues, and
15 laying those out. Again, this is something that a
16 customer, as part of the application for tariff
17 exemptions for a generator, that they'll be
18 installing this our way or a streamlined way for
19 the utility to talk about whether or not they
20 would qualify for certain exemptions if they meet
21 these final categorizations.

22 I don't think anyone's going to dispute
23 that. We absolutely need the first paragraph and
24 the second piece, the exemption information, is
25 kind of a benefit for the customer to --

1 PRESIDING MEMBER GEESMAN: Right.

2 MR. TUNNICLIFF: -- show them up front
3 what they're going to be exempt from. And if they
4 don't get exemptions from all of the different
5 tariffs or the components that they think they're
6 going to, they're probably going to come in front
7 of you anyway.

8 PRESIDING MEMBER GEESMAN: Yeah.

9 MR. TUNNICLIFF: And I don't mean to
10 raise any jurisdictional issues with incorporating
11 this, but it seems to me that it would be, you
12 know, an added benefit to streamline the process
13 and integrate.

14 PRESIDING MEMBER GEESMAN: Yeah.

15 MR. TUNNICLIFF: That's where we're
16 coming from.

17 MS. JONES: It could be that maybe one
18 of the things that you would need to do is
19 separate out the ones that the CEC has
20 responsibility related to. And then any
21 additional ones are put in, you know, another set
22 of boxes.

23 MR. TUNNICLIFF: And then which ones
24 would you clarify those as?

25 MS. SAVILLE: You would have DWR bond,

1 DWR power, HPC; you would have SCE, as well as
2 potentially PG&E, which should be added.
3 Everything from tail CTC down is otherwise
4 applicable. And standby and/or other are also
5 otherwise applicable.

6 And a suggestion to achieve both
7 purposes would be to just cut this page in half;
8 put it as an appendix. Put simply a paragraph at
9 the end of the application that describes the
10 customer friendliness of this form, that you will
11 be receiving this form as a courtesy, and as a
12 customer service. And it will describe for you,
13 so that it isn't perceived to be -- in that way
14 you could be -- it can be used for purposes of the
15 application process, and it can just be spelled
16 out that all the other information found below is
17 for the customer's purposes. And you could sort
18 of do it both ways. Just be very clear --

19 PRESIDING MEMBER GEESMAN: Yeah, I think
20 you need to clarify that the customer's not going
21 to be filling this out. That this is what the
22 customer will be getting back.

23 But, Scott, I think that we really need
24 to make certain Julie's okay with this before
25 including it in our package.

1 MR. TOMASHEFSKY: Absolutely. I think,
2 under the assumption that she's not, as long as we
3 have the four categories that are relevant to the
4 decision, I think that's our minimum amount of
5 information that we would require.

6 To the extent that she's okay with that,
7 we can place a caveat in there that says these
8 following categories are provided for
9 informational purposes. Any, again, disputes go
10 there, as opposed to here.

11 MR. TUNNICLIFF: Yeah, and do we not,
12 also I think one of the earlier sections in the
13 express terms calls out the utilities can file a
14 form, or use a form that's substantially similar.

15 And, again, it's something for us to
16 transmit to them what exemptions they're going to
17 qualify for. But I would appreciate some feedback
18 from you, Scott, as to, you know, how you want to
19 proceed with it.

20 And I think Tracy's point, from
21 RealEnergy, is good, too.

22 MR. TOMASHEFSKY: We'll be happy to do
23 that. And I just wanted to add that the main
24 objective really is to get the form in play. I
25 think once we do that we'll figure out which

1 things really aren't working well, and then we can
2 do some further refinements. But we want to get
3 going with it.

4 MR. TUNNICLIFF: Yeah, to the extent
5 that we can clarify these things now while we're
6 developing that's so much better than once we have
7 the tariffs in place. And then it will take an
8 advice letter filing to get things changed with
9 the CPUC, et cetera. That's not one of my
10 favorite things to do.

11 PRESIDING MEMBER GEESMAN: Yeah. No, I
12 think we've got the message that time's of the
13 essence on this.

14 MR. TOMASHEFSKY: So the basic
15 recommendation is to still retain this within the
16 application?

17 PRESIDING MEMBER GEESMAN: Yeah. And in
18 the spirit of trying to make this process a little
19 more customer friendly, and streamlining the
20 communication of information back to the customer
21 on the plethora of incentive programs that
22 presently exist.

23 But I think it needs to be explained to
24 the Public Utilities Commission very carefully,
25 and with the appropriate context laid.

1 MR. TOMASHEFSKY: Agreed.

2 MS. MANWARREN: I would like to just add
3 to that, too, that this is the vehicle that we
4 will need to communicate incompleteness. If
5 there's anything not on the form that we require
6 to meet the criteria, that's our opportunity to
7 explain that. And designate, perhaps, which
8 exemption would not be granted minus that
9 information.

10 So it's a little more than just
11 providing useful information and being customer
12 friendly.

13 MR. TUNNICLIFF: Okay.

14 PRESIDING MEMBER GEESMAN: Are there
15 other comments on part eight? Clyde.

16 MR. MURLEY: Clyde Murley for UC/CSU and
17 in this case for BOMA, also.

18 I'm just recalling that there was a
19 discussion that's related to the one we're just
20 having one or two workshops ago regarding the
21 title of this form.

22 And I see that the present title is
23 almost the broadest of all possible titles,
24 application for customer responsibility surcharge
25 tariff exemptions, whereas all of this really does

1 just apply to departing load exemptions that are
2 associated with customer generating facilities.

3 And I think the discussion we just had,
4 is, you know, in trying to provide the one package
5 for a customer could actually be confusing.
6 Because now we're indicating status of exemption
7 for certain costs that had nothing to do with the
8 application the customer submitted.

9 And the customer is likely to ask, you
10 know, why is this even being addressed here. And
11 I think there was quite a lot of interest, at
12 least among the customer representatives in prior
13 workshops, to actually tightly focus this form.

14 And first and foremost would be to name
15 it properly. And I see that the name has actually
16 broadened rather than narrowed over time. And I
17 have my notes as to what we agreed to on August
18 13th, and I think we revisited it in the meeting
19 following.

20 And the title I had in my notes was as
21 follows: application for departing load exemption
22 associated with customer generating facilities.
23 And I think it's not elegant, but I think it's
24 properly focused. And I would suggest that we
25 return to that focus.

1 And I think that has bearing on the
2 discussion we just had about whether, in fact, it
3 is advisable to try to have a comprehensive
4 indication of the exemptions that each customer
5 will enjoy as far as the utility understands. I
6 think it might introduce, actually, some
7 confusion.

8 MR. TUNNICLIFF: I hear what you're
9 saying, but when you include departing load tariff
10 exemptions you also include NDC, PPPC, TTA,
11 additional exemptions not otherwise found within
12 this departing load decision.

13 MS. MANWARREN: You could say as relates
14 to decision 0304030. But here again we brought
15 that up last time, as well. If you're going to
16 couch it in terms of all departed load customer
17 generation, then without any designation as to
18 reference to your proceeding, then that indicates
19 that it includes all of the non bypassable
20 charges, which is not under what your task is, my
21 understanding, which we've already discussed.

22 The public purpose program, the nuclear
23 decommissioning, as Dan said. Do you follow me?
24 In other words, if you do that it's going to sound
25 like it means all non bypassable charges, which we

1 already have tariffs in place for.

2 MR. TUNNICLIFF: So if we're going to
3 manipulate the title, you know, if we want to
4 narrow it to exactly what we're talking about
5 here, it might be better suited as application for
6 customer generation cost responsibility surcharge
7 tariff exemptions, --

8 MS. MANWARREN: Right.

9 MR. TUNNICLIFF: -- which the departing
10 load decision is dealing with the cost
11 responsibility surcharges components. And by
12 inclusion of these other things, these other
13 exemptions, we're providing the customer -- we
14 don't need to reiterate that, but that might be
15 more focused.

16 If we call it out departing load tariff
17 exemptions, there are additional --

18 MS. MANWARREN: Right.

19 MR. TUNNICLIFF: -- tariff exemptions
20 that -- additional tariff components that are
21 departing load related, but not necessarily CRS
22 related. To use as many acronyms as I possibly
23 can.

24 (Laughter.)

25 PRESIDING MEMBER GEESMAN: You know,

1 maybe this can be another pi ata that you beat in
2 your workshop, but --

3 MR. TUNNICLIFF: I don't mean to cut you
4 short, Clyde.

5 PRESIDING MEMBER GEESMAN: I have to
6 say, I am indifferent on the naming questions; and
7 I'm not certain I pick up the nuances of the
8 different sides of the argument.

9 MR. TOMASHEFSKY: And then you probably
10 don't want to.

11 PRESIDING MEMBER GEESMAN: And I don't
12 want to change anything that I've said on part
13 eight, because I do think that there is some value
14 to be served in part eight if we can make it a
15 little more customer friendly and little bit more
16 CPUC jurisdictional friendly.

17 MR. TOMASHEFSKY: Clyde is right. We
18 did visit that over the last two workshops and we
19 had agreed to that language. But we can certainly
20 revisit that. That's, I think, a minor issue to
21 the grand scope of the entire form. So we can
22 deal with it offline.

23 MR. MURLEY: Okay, thank you.

24 PRESIDING MEMBER GEESMAN: I do want to
25 stay on a track to adopt the regs at the October

1 22nd business meeting. I'm aware that we've got a
2 little more flexibility than that as it relates to
3 the forms, but I think we want the forms as close
4 to October 22nd as possible.

5 And you'd probably benefit from another
6 workshop or some type of public event. I don't
7 know that the Committee's participation is
8 necessary, but if you feel that it is, we can get
9 it on our calendar at some point in late October.

10 MR. TOMASHEFSKY: We'll see if we can do
11 it at the staff level, and to the extent that
12 there's some major disagreements then we can bring
13 it up to the Committee again.

14 But I would hope that we could have a
15 form up for adoption say by mid November. That's
16 within a few weeks of the adoption of the regs.
17 That works.

18 PRESIDING MEMBER GEESMAN: Okay. Are
19 there any other comments on this subject today?
20 Tracy.

21 MS. SAVILLE: Just a question. If
22 you're adopting the regs on October 22nd, and
23 comments are due October 20th, what will be your
24 process for reviewing comments and re-issuing the
25 final reg in a two-day period?

1 PRESIDING MEMBER GEESMAN: Comments will
2 be taken up at the October 22nd business meeting.
3 And if there's a need at the October 22nd business
4 meeting to amend the regs or change the proposal
5 in any form, it will be done there.

6 But we won't issue a separate Committee
7 document between the 20th and the 22nd.

8 MS. SAVILLE: So your comment about
9 receiving comments earlier than the 20th being
10 helpful is relevant in part for that reason?

11 MR. TOMASHEFSKY: Certainly.

12 MS. SAVILLE: Okay, thank you.

13 MS. JONES: And just to clarify, now, if
14 there were substantive changes that were going to
15 be made to the regulations as they stand now,
16 there would have to be 15-day language, is that
17 correct?

18 MS. HOUCK: If there's minor changes
19 that go beyond people's understanding of what the
20 regulations were intended to be, there would need
21 to be 15-day language for minor changes that would
22 not be considered basic editorial changes that
23 clarify the meaning.

24 Anything beyond that 15-day language
25 would have to go out for another 45-day period.

1 MR. TUNNICLIFF: So does that mean some
2 of the clarifications that were brought up today,
3 and some of those edits, those are considered 15-
4 day comments? Or are they minor enough that
5 that's not an issue.

6 MS. HOUCK: I think the majority of them
7 could be considered minor. There's at least two
8 of them I want to call and confirm with OAL
9 because it's just a good idea to confirm with
10 them.

11 Sometimes it could be considered a minor
12 grammatical change that doesn't substantive change
13 the document that would be acceptable, and you
14 would not need additional time.

15 But we want to just double check with
16 them and get clarification. And we will notify
17 everyone as soon as we have confirmation as to
18 whether we would need to put the language that was
19 suggested today out for an additional 15 days.

20 PRESIDING MEMBER GEESMAN: Amy.

21 MS. TESSLER: I just wanted to just
22 point out that in the regs 1395.3, it does say
23 upon receipt of a completed form with provisional
24 project categorization from the electric utility,
25 it seems like section eight will need to serve as

1 that provisional project categorization.

2 So we do need something in that form
3 where the utility can check the box, at least for
4 the on charge, power charge, and in the case of
5 SCE, --

6 PRESIDING MEMBER GEESMAN: There has to
7 be some communication mechanism; there's no
8 question about that.

9 MS. TESSLER: Okay.

10 PRESIDING MEMBER GEESMAN: Anything
11 else? Well, thank you all very much. This is an
12 important project and I think we're moving in the
13 right direction.

14 (Whereupon, at 11:58 a.m., the hearing
15 was adjourned.)

16 --o0o--

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